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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 UNITED STATES OF AMERICA, ) NO. CR-07-00344 CW  
12 Plaintiff, )  
13 v. )  
14 KENNETH EUGENE HOLLOWAY, )  
15 Defendant. )

16 UNITED STATES OF AMERICA, ) NO. CR-97-40059 CW  
17 Plaintiff, )  
18 v. )  
19 KENNETH EUGENE HOLLOWAY, )  
20 Defendant. )  
21

**STIPULATION AND [PROPOSED]  
ORDER CONTINUING CASE AND  
EXCLUDING TIME**

22 THE PARTIES hereto stipulate that the matter, now  
23 calendared for December 5, 2007, be continued to January 16, 2008,  
24 at 2:00 p.m. Although the parties are engaged in settlement  
25 discussions, a follow-up offer has not been conveyed to defendant in  
26 sufficient time for it to be considered prior to December 5. In  
27 addition, defendant has a pending state court felony case in Contra  
28 Costa County which may affect the resolution of both the federal

STIPULATION AND [PROPOSED] ORDER CONTINUING CASE AND  
EXCLUDING TIME

1 case and supervised release violation. (The date of December 19,  
2 2007 is not available because the defendant has a court appearance  
3 in his Contra Costa County case on that date and cannot be  
4 transported to federal court.)

5 The parties further stipulate that the time between  
6 December 5, 2007, and the next appearance in the matter on  
7 January 16, 2008, should be excluded under the Speedy Trial Act, 18  
8 U.S.C. § 3161(h)(8), for effective preparation of counsel. The ends  
9 of justice outweigh the interests of the public and the defendant in  
10 a speedy trial in this case. This exclusion is necessary to allow  
11 time for the parties to effectively prepare and to allow for  
12 continuity of counsel taking into account the exercise of due  
13 diligence.

14 IT IS SO STIPULATED.

15  
16 DATED: December 4, 2007.

17 /s/  
BRYAN R. WHITTAKER  
Special Assistant U.S. Attorney

18  
19 DATED: December 4, 2007.

20 /s/  
J. FRANK McCABE  
Attorney for Defendant Holloway

21 I hereby attest that I have on file all holograph  
22 signatures for any signatures indicated by a conformed signature  
23 (/s/) within this e-filed document.

24  
25 /s/ Bryan R. Whittaker  
Special Assistant U.S. Attorney

ORDER

For the foregoing reasons, the Court finds that good cause is shown -- taking into account the public interest -- that an exclusion of time between December 5, 2007, and January 16, 2008, is warranted under the Speedy Trial Act because it will afford counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that the ends of justice served by excluding time under the Speedy Trial Act outweigh the best interest of the public and the defendant in a speedy trial in the prompt disposition of criminal cases. Id. at § 3161(h)(8)(A). The Court, therefore, concludes that this exclusion of time is proper pursuant to 18 U.S.C. § 3161(h)(8).

DATED: December \_\_\_\_, 2007.

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HON. CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE